DOCUMENT RESUME

ED 296 325 CS 211 329

AUTHOR Elliott, Deni; Culver, Charles M.
TITLE Defining Acts of Journalistic Deception.
PUB DATE May 88
NOTE 31p.; Paper presented at the Annual Meeting of the Association for Education in Journalism and Mass Communication (71st, Portland, OR, July 2-5, 1988).
PUB TYPE Speeches/Conference Papers (150) -- Viewpoints (120)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Cheating; *Deception; *Ethics; *Journalism; Lying; *Moral Issues; Moral Values; News Reporting; Value Judgment
IDENTIFIERS Investigative Journalism; *Journalists; *News Reporters

ABSTRACT

To determine when, if ever, deceptive acts can be morally justified in investigative reporting, it is important to distinguish a deceptive act that is morally justified from an act that is not deceptive in the first place. This paper seeks to provide an account of what counts as deception and identify the kinds of journalistic practice that are morally questionable; i.e., to identify the acts that require justification by journalists as investigators, interrogators, and informers. Journalists have acted deceptively, if they have, in the course of an investigation, through intentional action or assertion, attempted to initiate or sustain a false belief, or if they have allowed another person, with whom they have a special relationship, to initiate or sustain a false belief. The journalist as interrogator has a duty to tell the source (1) that an interview for publication is taking place; (2) how the information is being recorded; and (3) if, through some misunderstanding and resultant action on the part of the source, the source becomes more likely to be harmed than he realizes. As informers, journalists have a duty to disclose information that the news organization has explicitly or implicitly promised to disclose, and that, if withheld, would lead readers to a false conclusion. (MS)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED296325

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Deni Elliott

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

DEFINING ACTS OF JOURNALISTIC DECEPTION

Deni Elliott, Ed.D.
Rockefeller Fellow in Professional Ethics
Dartmouth College
Hanover, NH 03755

and Charles M. Culver, M.D., Ph.D.
Department of Psychiatry
Dartmouth Medical School

May, 1988

CS211329

In 1979, the Chicago Sun-Times , following the lead of law enforcement 'sting' operations, opened a tavern to expose governmental corruption. The bar carried the ironic name, "The Mirage". Two Sun-Times reporters posed as the owners of the bar; governmental inspectors subsequently offered to take bribes from them rather than force the new bar owners to complete expensive repairs. The newspaper later published details of the elaborate masquerade along with examples of governmental corruption.

The reporters, Pamela Zekman and Zay Smith, became national folk heros among investigative reporters. However, a group of peer-judges witheld the coveted Pulitzer Prize because the reporters had used deceptive techniques to gather their information. The judges decided that the journalists should not be rewarded for a story that they obtained by masquarading.

Ben Bradlee, the executive editor for The Washington Post who argued successfully for withholding the prize, reportedly said at the time, "In a day in which we are spending thousands of man hours uncovering deception, we simply cannot deceive." But, although Bradlee said that he will not allow his reporters to make false statements, he doesn't seem to mind if people are misled in other ways. For example, he also said, "We do not lie about our profession but we don't waste time telling everybody what our profession is." (Goodwin, 1987, pp. 135-6). The implication is that there is a morally relevant difference between active deception and the concealment of one's identity.

Journalism scholars, as well as journalists, make judgments

about deception without making clear which acts count as deceptive. For example, Phil Meyer presents the following case in Ethical Journalism (1987):

> A just-nominated presidential candidate is meeting with state party chairpersons to discuss his choice for vice-presidential candidate. The meeting is closed to the press. A reporter, pretending to be a party staff person, hands a briefcase to one of the people going into the meeting and asks him to leave it on the table for his boss. The briefcase contains a tape recorder, and the reporter retrieves it after the meeting.

Forty-five percent of the editors Meyer interviewed said that they would admonish the reporter and kill the story. Twenty percent said that they would reward the reporter and use the story.

Meyer's analysis of the situation includes the following:

> Here we have a case of pure eavesdropping by electronic means, and that carries a heavier moral burden than an undercover operation where one meets the deceived person face to face. The invasion of privacy is flagrant, and the deception is greater. To get that bugged briefcase into the room requires an outright lie. Deception, or at least the withholding of relevant information, is a common reportorial trick (p. 83).

One might ask why surreptitious taping carries a heavier moral burden than masquarading. How is it that invasion of privacy is hooked up with deception? And, just what is deception if it is different from "withholding of relevant information"?

Reporters have opportunities to deceive in at least three areas: during investigations, while interviewing, and in the publication of their stories. Some journalists say that they will

"lie, cheat and steal" to get a story, that the end - getting information - justifies any means. Others follow the letter of what they regard as the moral rule - don't lie - but see nothing wrong with leaving some important things unsaid. And, there are those who perceive an affirmative duty to ensure that those they contact are not misled in any way.

The critical moral question is: when, if ever, can deceptive acts be morally justified. But, first, it is important to distinguish a deceptive act that is morally justified from an act that is not deceptive in the first place. Non-deceptive acts present the journalist with no moral problem, unless, of course, they violate some other moral rule.

In this paper we are concerned only with giving an account of what counts as deception and, through application to journalistic practices, identifying the kinds of journalistic practice that are morally questionable. While this paper will not present a theory of justification, we are attempting to identify the acts that require justification.

We believe that the term 'deceive', like the terms 'lie' and 'cheat', always implies a moral judgment by its very definition. Conversational conventions allow people to use the term 'deceive' in such a way that we would hold no individual morally culpable. For example, I might say that a stop sign, twisted to point in the wrong direction, 'deceived' me, but usage such as this is metaphorical. When I say that a competent person 'deceived' me, there's an attached implication that that person is blameworthy,

unless we have additional exculpatory information.

For example, with great respect, I might say of a magician, "Wow, he really deceived me!" Sometimes, when we know the situation and are willing to suspend our sense of disbelief, we like being tricked. The fact that the person acting deceptively is a magician and the fact that I entered willingly into a situation where I hoped I would be deceived are morally relevant facts. Magicians are justified in acting deceptively because deception is essentially connected with their professional ends- tricking people - and we consent to magicians to act deceptively as part of their jobs.

However, the deception we will discuss in this paper is the sort of action that the journalist uses as a way of accomplishing professional ends - that of acquiring or publishing information. The journalistic ends are no more essentially connected with deception than are a physician's ends. It may be easier for journalists to gain information if they act deceptively, just as it may be easier for a doctor to gain consent from a patient who has not been told that the proposed procedure is risky. But, professionals who act deceptively to accomplish their ends must justify the action. Here, we are interested in identifying those acts that require moral justification from journalists. Journalists are not morally justified in using deceptive means to carry out their jobs without such justification.

The Nature of Deception

While some current philosophers, (Chisholm and Feehan

(l977), Bok (1978) and Fried (1978) in particular), have written about deception, they usually focus on intentional false assertions rather than on deception in general, leaving open many questions about the nature and justification of acts of deception that are not lies.

Bok identifies a lie as "any intentionally deceptive message which is stated." (p. l4) She notes that lying is part of the larger category of deception. But, while her separation implies that one might deal with the moral complexities of each differently, she does not discuss how lying might or might not be morally distinct from deception.

In a later book (1982), Bok discusses the dangers of journalistic deception, but does not specify just which acts ought to count as deceptive (pp. 259-264).

Charles Freid says that lying is like breaking a promise. "To make an assertion is to give an assurance that the statement is true....An assertion may be seen as a kind of very general promise; it is a promise or assurance that the statement is true." (p. 57).

We think that lying is closer to cheating than promise-breaking. People implicitly agree to a general rule of truthtelling in interactions with others. Lying and other forms of deception break that rule.

Although Freid says that "under appropriate circumstances, even remaining silent may constitute assertion," (p. 57), he also states that deception is not the same as a lie, saying that

deception lacks the property of assertion. Freid does not explain why he believes that silence may constitute assertion when non-verbal acts cannot.

Chisholm and Feehan argue that lying1 is worse than other types of intended deception.

> It is assumed that, if a person L asserts a proposition p to another person D, then D has the right to expect that L himself believes p....Lying, unlike the other types of intended deception, is essentially a breach of faith (p. 153).

We disagree with Chisholm and Feehan that lying is the only type of deception that is a breach of faith. We believe that acting deceptively is sometimes a breach of faith and sometimes not. Classifying the action as active or passive does not seem morally relevant in this regard. In fact, withholding information often constitutes a breach of faith greater than does lying. Lying to a stranger on an airplane in order to impress him seems less a breach of faith than a doctor's not telling a patient important side effects of a drug. The special relationship between the doctor and patient makes not telling certain kinds of information deceptive, and sometimes, very seriously deceptive.

Thus, while we accept that the statement "You deceived me,"

1Chisholm and Feehan offer the following definition: L lies to D =df There is a proposition p such that (i) either L believes that p is not true or L believes that p is false and (ii) L asserts p to D.

would be appropriate in situations where "You lied to me," would not, we believe that acts of deception that are not lies are as morally troublesome as those that are.

Gert (1988) makes the latter point well in explaining why "Don't lie" is too narrow an expression for a moral rule:

> A rational person would want to avoid being led to have a false belief by silence, by gestures, even by a true statement made in a certain tone of voice; it is being led to have a false belief that is important, not that it is done by making a false statement. Thus the rule should be concerned with prohibiting acts so as to lead someone to have a false belief. I shall formulate this rule as "Don't deceive." (p. 126 proofs)

It is important to keep deceptive acts by omission as much in journalists' consideration as acts that are deceptive by commission. Concealing information can be as morally problematic as lying, but there is the tendency on the part of many persons to believe that acts of commission are worse.

There is a difference between A acting deceptively, B being deceived and some situation being an act of deception. Any of these three can exist independently.

B can feel deceived without any intention on the part of A to deceive. If a doctor is ignorant of some important side effect when he prescribes a medication, the patient might nonetheless feel deceived when he experiences an unexpected effect. But, while we might question the doctor's competence in not knowing

the side effect, the doctor did not act deceptively.

A acts deceptively only when she acts with the intention to deceive. In order to act deceptively, A must act purposefully, through false assertion or action or through withholding of information that she has a duty to tell. Intentionality is a necessary condition for A's acting deceptively.

Deception takes place when A acts with the intention to deceive and is successful - some person is, in fact, deceived through A's intentional action.

Since we are interested in action that is wrong, at least in a prima facie sense, we are interested here in highlighting the kinds of situations in which A acts deceptively. As we will show, A can act deceptively without B being deceived. The attempt to deceive - acting deceptively - is morally culpable even if the deception is not successful.

Deception by Action

One actively deceives by lying or by non-verbal equivalents to lying.

Lying: Person A lies when she asserts a proposition, p, that she believes to be false with the intention of having another person believe it is true. If I tell you I am very wealthy when I am not, then I have lied to you.

Non-verbal Equivalent: Person A acts deceptively through a non-verbal equivalent to lying when she presents herself with the intention of misleading others into believing something that is not true. Non-verbal equivalents to lying include gestures,

silence, physical appearance, even truthful statements said in such a way as to mislead. If I am not a police officer, but dress up like a police officer in order to initiate a belief in others that I am a police officer, I have acted deceptively.

Deception by Inaction

Person A acts deceptively through inaction when the following conditions are met: (i) A intentionally withholds a proposition that she believes to be true and (ii) A believes that she has a special relationship with person B, such that B could reasonably expect that A has a special requirement (beyond that expected of any person) to tell him p. If a doctor conceals information about an important side effect of a drug because she does not want her patient to know of the side effect, she has acted deceptively.

The Special Relationship Requirement

The special relationship that is needed for a person to deceive by inaction is often a professional relationship that a duty to tell certain kinds of information. For example, if your internist finds, during a routine medical examination, that you have a growth on your hand that needs medical attention, you would feel deceived if she didn't tell you this information. If, on the other hand, a physician walking toward you on the street notices the growth, this physician is under no obligation to tell you his belief even if he also believes it needs medical attention; you would have no basis for feeling deceived if he didn't stop and tell you.

Withholding information can also be deceptive because of special social relationships. Suppose A stops to ask directions from a stranger, B. B listens with seeming attention while A says, "I'm trying to get to Woodstock, so I'll just continue to drive north on Rt. 5." B, by stopping when asked and by presenting himself as listening attentively to A's planned route, incurs a responsibility to set A straight. If B withholds what he believes to be true, namely, that Woodstock is nowhere near Rt. 5, A will have a basis for feeling deceived when he discovers the truth. Other people on the street who have not entered into this special relationship with A have no similar obligation even though they may have heard the conversation and know that A is mistaken. It would be laudatory for C, standing nearby, to say to A, "Wait a minute, that's not how you get to Woodstock," but there is no special obligation for C to do so and C has violated no moral rule by remaining silent.

A letter of recommendation is another form of special social relationships. If I write a positive letter of recommendation for an employee, Alan, whom I have discharged because he is a severe alcoholic and an embezzler, and I do not mention in my letter his noticeable intoxication on the job, his frequent hangover-caused Monday morning absences from work, and his criminal financial behavior, then I have acted deceptively toward the potential employer to whom I have written. This would be true even if my letter contains no lies, that is, every statement that I do make in the letter is true. My omission of the seriously incriminating

material is deceptive because there is a widely shared belief and expectation that letters of recommendation will not fail to mention material of this seriousness. I have made no explicit promise orally or in writing to anyone that I will reveal incriminating information, but by virtue of writing a letter of this form, I have taken on an implicit duty not to withhold relevant serious information.

Other times, the duty not to withhold comes about through explict promises. For example, if A promises B that she will never let anyone use their jointly-owned sailboat without getting B's permission, and A subsequently lends the boat to C for a weekend without telling B, then A has acted deceptively toward B. Her promise has created a duty to tell which she has subsequently breached. However the duty exists only with regard to B; A has no duty to tell her next-door neighbor that she has lent the boat to C because she has not promised to tell the neighbor.

It would often be too much to expect B to know, before the fact, what she would expect A to tell her. The essential element is how A interprets the relationship. If A believes that B has a right to expect A to tell x and A intentionally withholds x, then A has acted deceptively.

Deception is Not a Success Word

B's feeling deceived or believing that she was deceived is not a necessary condition for A's acting deceptively because B could be deceived without her knowledge and because deception is not a "success" word: A can act deceptively without anyone coming

to be deceived. For example, if a reporter dons a white coat, drapes a stethoscope around her neck and strides purposefully into a restricted area of the hospital, intent on gaining access to a patient's record, but is stopped by the first security guard who says, "I know you - you're a reporter," she has still acted deceptively. Deception occurs when A acts with the intention to deceive, whether successful or not.

Borderline Cases

It is sometimes hard to decide whether not telling something to someone represents deception. Often this is because there may be disagreement among reasonable people about whether some fact falls within the scope of what one has a duty to tell. Suppose I do not mention in my letter of recommendation that my former employee hums continually when she works, that some coworkers have found this very annoying, but that she claims she must hum in order to work. Some might claim that irritating idiosyncrasies fall within the purview of what letters of recommendation should include, others would probably claim not.

Borderline cases can also be found within professional relationships because the duty to tell certain kinds of information may change as social understandings of the profession change. For example, prior to a change in the AMA Code of Ethics in the late 1940's, it could have been considered a breach of ethics for a doctor to tell a terminally ill patient that she was dying. Now, the convention is the opposite - the doctor is presumed to have a duty to tell the patient such information, and

doctors who do not tell are reagarded as acting deceptively.

Journalistic Deception #1: Investigative

Journalists carry out different kinds of roles in their work. They are, first, professional investigators. They observe and collect data for stories. The sort of deception that occurs while journalists are investigating a story is the sort that is most often discussed by journalists.

The following cases are classics; whether or not these are examples of deception and whether, if they are, they are morally justified, continues to be debated in newsrooms. In these debates, journalists often focus on the irrelevant distinction between commission and omission and make that the essential factor in judging whether deception took place.

1. A reporter pushes through a crowd of spectators and steps over police barricades at a crime scene, saying, "Let me through, I'm a doctor."
2. A crime reporter, seated at the news desk in the Los Angeles Police Department, decides to verify that a suspected rapist is under investigation in another state. He calls the police department in Detroit, identifying himself only as "Jones from LAPD."
3. A reporter, wishing to gain access to the family of a critically injured state senator, puts on a white uniform and walks past the security officers who are denying entry to all but medical personnel.
4. A photojournalist joins the American Nazi Party and

becomes its official photographer. He masquarades as a member in order to collect pictures that he hopes will damage the organization. Nevertheless, he acts like a loyal member of the party and fulfills his responsibilities as official party photographer.

5. The university newspaper editor is alerted to a meeting of an incest survivors' support group by a notice in the school paper. She attends, but keeps silent at the beginning of the meeting when the facilitator says that the meeting should be regarded as private and that she assumes that all eight of the woman attending are victims. The editor listens closely to the tales of abuse for a story she intends to write.

6. A consumer reporter, who has received complaints of price-gouging by local service stations, decides to investigate. She has a car verified to be in excellent condition by a cooperative state inspector. She takes the car to local garages, asking the mechanics to "check it out." She then collects the stations' written estimates of repair work and prepares a broadcast consumer report.

7. A black reporter, who has heard unfair housing complaints about a local apartment complex, stops at the rental office on his way to work one day, and asks if any apartments are available for rent. He has no intention of renting one.

8. A foods editor buys six different brands of food processers to test against one another for a comparison story. She does not tell the salespersons the reason for her purchases.

9. A theatre critic attends the opening night performance of a new play. She observes the action critically, makes some notes during intermission and plans the structure for the review she will write at the end of the evening.

All of these examples involve journalists allowing or encouraging relevant others to believe falsely that they are something other than journalists, but not all of these journalists are acting deceptively. We think that examples eight and nine are clearly not examples of deceptive action; examples one through five clearly are. Six and seven are borderline cases, but we believe they too are deceptive.

Applying our earlier definitions, we would say that a journalist has acted deceptively in the course of investigation (1) if she has, through intentional action or assertion, attempted to initiate or sustain a false belief or (2) if she has allowed another person, with whom the journalist has a special relationship, to initiate or sustain a false belief, p, when the journalist has a duty to tell -p.

When a journalist is investigating rather than interviewing, it's not often easy to decide with whom a journalist might have a special relationship. We believe that a special relationship

develops between the investigating journalist and some other person or group when the journalist allows others to believe that she is something other than an investigating journalist.She has a duty to tell people that she is present and working when entry or information is explicitly restricted to an identifiable class or classes or persons other than journalists.

Examples one, three and four are examples of deception by action. The reporter in example three who dons a white uniform to walk past security guards is saying, "I am a nurse," as surely as the reporter who in example one who announces, "I'm a doctor." But it is not primarily her saying, "I am a nurse," which is deceptive (she might even be one), it is her not saying, "I am a reporter," in a setting where entry is explicitly denied to reporters.

The photojournalist in example four is acting deceptively in a similar way. He is deceiving by action and assertion because he is causing others to believe that he is a Nazi when he is not. But even if he were a Nazi, he would be acting deceptively: he is able to collect information not just because party members think he is a Nazi, but because they trust that he is not also a journalist or an FBI agent working undercover.

Example two shows the possibility of deceiving through ambiguity. In one sense Jones is not lying when he identifies himself as "Jones from LAPD." His name is Jones and he is calling from a location in the LAPD. But the police department in Detroit, as Jones knows, is likely to believe that Jones is a

police officer himself. (The philosopher H.P. Grice (1975) would say that Jones has violated a tacit rule of cooperative conversation, "Avoid ambiguity," and has knowingly deceived through this violation. Many instances of deception through action or inaction represent violations of the conversational maxims which Grice identifies.)

Example five shows that reporters can sometimes act deceptively by attending and reporting on "public" events. There are at least two senses of "public" that need to be distinguished. The incest survivors group was public in one sense: it was advertised in the school newspaper and was presumably open to any incest survivor who wanted to attend. However, as the group facilitator made clear at the outset, the meeting was not public in another sense; the content of the discussion was not meant to leave the room. Membership in the group was implicitly limited to a class of people which excluded someone functioning as a journalist. Once these ground rules were made clear, the journalist had a duty either to leave or to announce that she was functioning as a journalist. To remain as she did was to act deceptively. The college newspaper editor attending the meeting qua journalist would still be acting deceptively, of course, even if she were also an incest victim.

What separates the reporters in examples four and five from reporters buying consumer products for testing or conducting critical reviews (examples eight and nine) is the restricted nature of entry.

The products and entertainment offered in examples eight and nine have no implied or explicit restrictions about who may buy them or for what purpose. There is certainly no implication that the consumers of these products will keep their judgments about the products secret. The reporters in examples eight and nine have not, in concealing their identity, violated the terms of any special relationship. Notice the difference between example six and example eight. While the consumer reporter taking the car in for estimates in example six is doing only what anyone might do, she allowing the mechanic to believe that she is a consumer with a car problem, not a journalist working on a story. In a similar fashion, the journalist in example seven is not lying when he asks if there are any apartments available for rent, but he is withholding his reason for asking.

Sometimes asking a question is nothing more than that; if I ask, "Is it raining outside?", I need not be implying anything additional. However, sometimes asking a question strongly implies an accompanying statement. If I ask, "Do you want to go to the movie tonight?" I imply, "I want to take you to the movie tonight if you say 'yes'." If you say 'yes' and I reply, "I hope you'll figure out a way to do that," then I might be correctly accused of acting deceptively because my strongly implied statement has turned out to be false.

Whether or not the reporter acted deceptively by asking if there were apartments available for rent depends on whether or not the question implies a statement, "I myself might want to

rent one." Whether or not the the reporter acted deceptively by asking the mechanic to check out her car depends on whether or not the request implies the statement, "I think there is something wrong with the car."

We believe that the reporters in the borderline examples of six and seven acted deceptively by intentionally presenting themselves ambigiously in a communicative act. Both deceptions may be easily justified, but it is important to distinguish justified acts of deception from acts which are not deceptive in the first place.

However, neither the reporter in example eight nor the critic in example nine is acting deceptively. While the food processor manufacturers or the playwright might like to know that a reporter is interested in their products, the reporter has established no special relationship in which she is presenting herself as someone other than who she is.

Journalistic Deception #2: Interrogative

Journalists can be deceptive even when relevant others know they are journalists. The journalistic role is ambiguous. Since it is not always totally clear what duties are attached to the role, it is sometimes difficult to know just what the journalist has a prima facie duty to tell.

Again, these examples are the sort debated by journalists:

1. A reporter for the local newspaper interviews the college president for a story on plans to deal with a deficit. The president knows she is being interviewed,

knows that the journalist is taking notes to write a news story, but doesn't know that the journalist is taping the conversation on a hidden tape recorder.

2. A medical ethics specialist is explaining political difficulties in the field to a national news magazine reporter. "This is off the record," the ethicist says and without pausing, tells the reporter a detailed account of infighting among experts. The ethicist is upset when he sees his account in print. The reporter says that he never agreed to go off the record.

3. A reporter receives evidence that the spouse of a candidate for public office has recently been treated for drug dependency. She interviews the candidate, and asks, "Have you had any personal experience with drug problems?" His expected denial, along with her evidence will serve as the focus for her story.

4. The reporter is young and attractive. She thinks the official, charged with misuse of state funds, is very unlikeable and clearly guilty, but knows he will not be open with her if she tells him how she feels about him. So, she is sympathetic when she interviews him, and after hearing early in the interview that his wife has left him, suggests that he call her sometime if he's lonely.

We consider all but example three to be examples of interrogative deception.

The reporter-source relationship is an interesting professional relationship: unlike doctor-patient, attorney-client or accountant-client, reporter-source is not fiduciary. While the reporter is expected not to violate moral rules (like deception) with respect to the source, there is no expectation that the reporter will ever act with the motivation of doing what is in the source's best interest.

Both parties share the goal of getting information to the reader/viewer, although they may well disagree as to what information that should be. While it is acceptable for the reporter to meet the interests of the source accidentally by meeting the interests of the reader, putting the source's interests first constitutes an unacceptable conflict of interest.

The only information that the journalist qua interrogator has a duty to tell is information about the procedural features of the interview. We include among those duties: 1. a duty to tell the source that an interview for publication is taking place, with a positive duty to explicitly relay more detailed information to less sophisticated sources, 2. a duty to tell the source how the information is being recorded, and 3. a duty to tell the source if, through some misunderstanding and resultant action on the part of the source, the source becomes more likely to be harmed than he knows himself to be.

In example one, the reporter has acted deceptively by making an audio-tape without the source's consent. A source becomes increasingly vulnerable through the means by which information is

gathered. I am likely to be far more guarded, for example, if I know that I'm being video-taped than if I think I'm simply serving as a source for an on-the-record interview. Surreptitious taping does not allow sources to adjust their message to the method of collection.

This 'staging' by sources is precisely why some journalists argue in favor of surriptitious taping. However, if there is a journalistic duty to take information from sources when the sources are in their most 'natural' state, there would be a duty for the reporter never to reveal her identity. Sources 'change' their demeaner and speech when they know they are speaking to a reporter from when they think they are not speaking on the record. It isn't consistent to allow sources to adjust their message to speaking for the record, but not allow them to adjust their message to speaking for a recording device.

The question of just what is 'on the record' leads to example two. The words, "off the record," when uttered by a source act, the source believes, as a performative. Like "I promise," and "I do (marry you)," the words initiate the act they describe.

Journalists understand that the notion of off-the-record is complex and subject to negotiation. "Off the record" may mean anything from "Use the quote, but don't identify me as the speaker," to "This information is on background - it is for your help in understanding the situation, but not to be published."

Even the most sophisticated source may not make clear which

nuance of "off the record" is meant, but all sources who utter these words are indicating restricted information to follow. If the journalist withholds her intention to disregard the source's qualification of "off the record," the journalist is allowing the source to believe he is giving restricted information when he is not. The reporter is allowing the source to have a false belief through intentional inaction. The reporter is acting deceptively.

Examples three and four provide a different twist. In example three, the reporter is concealing knowledge. In example four, the reporter is feigning emotion.

The reporter in example three is not acting deceptively when she withholds information from her source. The source has no right to expect that the reporter will share information that she knows. In fact, it is reasonable for sources to believe that reporters may withhold information. When a reporter interviews a particular source, she is looking for that source's perspective, unadulterated by information provided by others.

But, if a reporter intentionally misleads the source by encouraging the source to believe that the story is going to be positive when she knows it is going to be negative, the reporter has acted deceptively.

Feigning emotion is different from concealing knowledge in that feigning emotion is the equivalent of saying, "I feel this way about you." If 'this way' is not genuine, then the reporter is acting deceptively through action or assertion. This sort of deception is no more role-specific than lying in other cases.

On the other hand, we believe that the contrary, concealing emotion, is not deceptive. The reporter's duty is to act 'professionally' - interested but neutral - when interviewing a source. If the reporter feels hostility toward a source (or even warmth or sexual attaction), that emotion is presumably not part of a news story and is considered to be something that a professional can and should set aside.

The reporter does act deceptively when she feigns knowledge. A reporter nodding affirmatively at the source's statement, "I suppose you know about x," is the non-verbal equivalent of "Yes, I know about x."

Journalistic Deception #3: Informative

X is informative deception if the reporter intentionally includes false statements in a published story or if the reporter conceals information that allows the reader to initiate or sustain a false belief, p, when the journalist has a duty to tell -p.

Within their role of informers, reporters have two duties to tell. (1) They have a duty to tell readers information that the news organization has explicitly or implicitly promised to tell. (2) They have a duty to tell information that, if withheld, would lead readers to a false conclusion that readers would not be likely to reach if the information were disclosed. We add a qualification that the information in question must be in the context of the newsworthiness of the article.

U.S. mass market news organizations have explicitly or

implicitly promised to give their readers what they believe to be accurate and important information. It is this promise that allows travelers throughout the U.S. to pick up mass market newspapers across the country and assume that the news stories they see on the front pages reflect the journalists' attempt to approximate the truth and the journalists' perception of what events, issues and facts are most important that day.

Yet, this duty to tell does not imply that journalists supply all known facts. No news story can totally represent reality. Some of the information gathered, while interesting, may simply not fit the context of the story. The characteristics of an event or an issue that determine its news value set the story's contextual limits.

Consider these examples:

1. Reporters write news articles about the man who saved the President's life by knocking a gun from that hand of a potential assassin. Although the reporters know that the man is gay, they withhold that information.
2. The newspaper publishes a story on the safe returning of a missing six-year-old. The journalists knowingly exclude the fact that she was sexually molested.
3. A reporter writes a story based on a justice department investigation of possible insider trading. The story contains detailed information that makes the

source look clearly guilty. The reporter includes a truthful paragraph that the story was compiled from many sources, few identified. However, all of the incriminating material came from a justice department source who 'leaked' the information to the reporter. The reporter withholds information about this source knowing that readers will question the validity of information that they think came from a biased source.

4. An editor receives information that the government is planning military intervention in an attempt to rescue U.S. citizens being held hostage. The President calls to ask that the newspaper withhold publication until after the intervention. He sits on the story.

The journalists in example one were not acting deceptively, although some journalists might argue that the information concealed is 'relevant'. The claim of relevancy does little to explain why specific bits of information are published and others are not. A fact is relevant because the reporter has decided to include it. Argument from relevancy is circular.

Our alternative to relevancy is to judge whether certain information is withheld with the intention of leading readers to a false conclusion within the context of the publication. Readers would not reach a false conclusion concerning the hero's public action if they were not informed of his sexual preferences. On the other hand, readers of the story outlined in example three might well reach a different conclusion concerning the probable

guilt of the subject of investigation if they know that the incriminating information came from a source who had an interest in making the subject look guilty.

This kind of deception also occurs when news organizations run company press releases in a form which makes them appear to be staff-written stories. Conventionally, reporters and news organizations are expected to serve no outside interest. Readers will rightly draw different conclusions about the information in a story if they know that the writer of a particular article is not a dispassionate reporter, but a corporate communications officer trying to promote the company.

The journalists in example two are acting deceptively. Readers will reach a false (or at least seriously incomplete) conclusion concerning the child's victimization. The child's sexual molestation is contextually tied to her kidnapping. However, must news organizations have told their readers that they will not reveal information concerning sexual assault of identifiable children because of the potential harm to the child if this information were made public. Not only is this an example of deception that may be morally justifiable, it is an example of journalistic deception that is condoned by most communities.

Example four is an example of informative deception because news media in the U.S. have explicitly promised to provide readers with information necessary for self governance. Theoretically, any information pertaining to governmental operations is necessary for self-governance in a democracy. While

reasonable people might be willing to allow news media to self-censor material pertaining to military operations, it is nonetheless deceptive action that requires moral justification.

This paper has been an attempt to clarify what kinds of actions should be included in a discussion journalistic deception. Once it is clear that a journalist's action might be deceptive, the journalist must then consider whether the deception is morally justifiable. That step takes the discussion beyond the identification of prima facie violations and is beyond the scope of this paper.

REFERENCES

Bok, S. (1978). Lying. New York: Random House.

Bok, S. (1982) Secrets. New York: Pantheon Press

Chisholm, R. & Feehan, T. (1977) "The Intent to Deceive," The Journal of Philosophy, Vol. LXXIV, No. 3, March 1977.

Freid, C. (1978) Right and Wrong. Cambridge: Harvard University Press.

Gert, B. (1988) The Moral Rules. New York: Harper and Row

Goodwin, G. (1987) Groping for Ethics in Journalism, 2nd Ed.Ames: Iowa State University Press.

Grice, H.P. (1985) "Logic and Conversation," The Philosophy of Language. A.P.Martinich, ed. New York: Oxford University Press, pp. 159-170.

Meyer, P. (1987) Ethical Journalism. New York: Longman